

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JUNE HAWKINS-KIMMEL, and  
RICHARD HAWKINS-KIMMEL,

Plaintiffs,

No. 03:14-cv-00529-PK

v.

ANDREW HAWKINS-KIMMEL, and  
M&A WEALTH MANAGEMENT, INC., a  
Colorado Corporation,

ORDER

Defendants.

HERNANDEZ, District Judge:

Magistrate Judge Papak issued a Findings and Recommendation (#22) on November 20, 2014, in which he recommends that this Court grant in part and deny in part Defendants' motion to dismiss. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, I am relieved of my obligation to review the record *de novo*. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); see also United States v. Bernhardt,


840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge's report to which objections have been made). Having reviewed the legal principles *de novo*, I find no error.

### CONCLUSION

The Court ADOPTS Magistrate Judge Papak's Findings & Recommendation [22]. Accordingly, Defendants' motion to dismiss [16] is granted in part and denied in part as follows: the motion is denied to the extent it requests dismissal for failure to satisfy Rule 9(b)'s heightened pleading standard, alleges failure to bring this action within the applicable statute of limitations, and attacks Plaintiffs' claims for accounting; the motion is granted as it applies to Plaintiffs' failure to plead reliance in their fifth claim for relief. The fifth claim for relief alleging violations of Oregon Securities Law, O.R.S. 59.135 and 59.137, is dismissed without prejudice. Plaintiffs may amend the claim to add facts necessary to plead reliance.

IT IS SO ORDERED.

DATED this 22 day of Dec, 2014.

  
MARCO A. HERNANDEZ  
United States District Judge